

# Exhibit B

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK





IN RE: )  
RESIDENTIAL CAPITAL, LLC, ) Civil Action No.  
et al., ) 12-12020 (MG)  
Debtors, )  
-----)

CONFIDENTIAL DEPOSITION OF JEFFREY A. LIPPS

New York, New York

Tuesday, July 23, 2013

Reported by:  
JOMANNA DeROSA, CSR  
JOB NO. 64088

	AHG Designations
	Debtor Designations
	AHG Counter Designations
	Unresolved Objections

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July 23, 2013

10:00 a.m.

Confidential Deposition of  
JEFFREY LIPPS, held at the offices  
of McKool Smith, One Bryant Park,  
New York, New York, before Jomanna  
DeRosa, a Certified Shorthand Reporter  
and Notary Public of the States of  
New York, New Jersey, California  
and Arizona.

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2 commercial litigator for now 32 years. The last  
3 three years of which -- or I guess two years  
4 before the filing of the bankruptcy and the year  
5 after I have been actively involved with respect  
6 to RMBS securitizations, and rep and warranty  
7 claims, as well as PLS claims. So, I have had  
8 substantial experience in the area.

9 And as part of my ongoing  
10 assistance with the Debtors' counsel, I continue  
11 to stay abreast of what is developing in the law  
12 with respect to the legal issues, and I have  
13 direct experience in terms of representing the  
14 Debtors and some of the non-Debtors pre-petition  
15 in these cases, and have a very good understanding  
16 of what the complexities are in terms of the  
17 discovery that will be encountered, as well as the  
18 legal issues that you have to confront in these  
19 kinds of claims.

20 Q. So, is it fair that you have  
21 submitted a Declaration as an expert in the  
22 litigation of complex commercial disputes with  
23 specific subject matter expertise in the body of  
24 law that is developed in disputes regarding the  
25 sale of residential mortgage-backed securities or

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2 around the cases or put yourself in the case, if  
3 you want to do it. So, you know, I've got to  
4 emphasize that I have what I consider to be some  
5 unique specific factual knowledge, that it would  
6 take years of discovery and interviews and active  
7 involvement in litigation, I think, to replicate.

8 Q. When were you first retained by  
9 Residential Capital, LLC or any of its affiliates  
10 as counsel?

11 A. I believe that back in, I'm going  
12 to say the '90s, I did some work for RFC when they  
13 had their commercial mortgage unit, that I was  
14 engaged to represent them on some lender liability  
15 cases that they had and some legal disputes  
16 related to some portfolios that they had acquired.

17 But that was the commercial  
18 division. And then I continued to represent them  
19 in that capacity up until they sold off that unit.  
20 I can't remember the exact year. It might have  
21 been 2004/2005.

22 And then as far as representing  
23 Residential Capital, I believe that I was first  
24 retained in, say, March or April of 2010, and  
25 there were MBIA versus RFC was pending at the



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2 time. New Jersey Carpenters was pending at the  
3 time, and the MBIA/GMAC Mortgage case had just  
4 been filed. So, those were the three cases I  
5 started working on, one which was in the midst of  
6 discovery at that point.

7 Q. So, for the period from 2004 or  
8 2005, when you said that the commercial unit --  
9 the commercial mortgage unit was sold, through  
10 2010, when you said you were retained by ResCap,  
11 did you do any work for Residential Capital or any  
12 of the Residential Capital affiliates?

13 A. I guess I should probably take a  
14 step back because I've represented GM for many  
15 many, many years, and then I also represented  
16 GMAC, principally on its auto finance side,  
17 handling a lot of major cases for them. And then  
18 at some point in time, probably in the 2000s, my  
19 firm got retained to assist them in foreclosure  
20 actions where the borrowers asserted counterclaims  
21 or made direct challenges to the actual loan.

22 So, we had represented them for a  
23 number of years, more on one-off type cases, and  
24 then at or about the time that I gotten engaged  
25 for RMBS litigation we also entered into a

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"Declaration of Jeffrey A. Lipps In Support of Debtors' Motion Pursuant to Federal Rules of Bankruptcy Procedure 9019 for Approval of the Settlement Agreement Among the Debtors, FGIC, the FGIC Trustees, and Certain Institutional Investors."

(Lipps Exhibit 1 marked for identification.)

Q. Do you recognize this document as your Declaration?

A. It is my Declaration.

Q. Did you write this Declaration?

A. I did.

Q. And your electronic signature appears on page 54. Is that correct?

A. This version does have an electronic signature. I think I probably had a wet signature on it that I did on the 7th of June, too.

Q. And when did you begin drafting this Declaration, Mr. Lipps?

A. This particular Declaration, I started working on it, I'm going to say, on May 31st.

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2 Q. And what caused you to begin  
3 drafting this Declaration on May 31st?

4 A. I met with Debtors' counsel at  
5 Morrison & Foerster, and they asked me if I would  
6 review the FGIC settlement and offer some opinions  
7 with respect to that settlement.

8 Q. And was May 31st the first date you  
9 had been shown the FGIC Settlement Agreement?

10 A. I believe that's right.

11 Q. Okay. When did you first learn  
12 that a FGIC Settlement Agreement was being  
13 negotiated?

14 A. I don't know that I could answer  
15 that because I don't know that I knew a FGIC  
16 Settlement Agreement was being negotiated until I  
17 was asked to come to New York, and have the  
18 meeting with Morrison & Foerster to take on an  
19 evaluation of the Settlement Agreement.

20 Q. And that meeting was on May 31st?

21 A. That's what I best remember.

22 Q. And what documents were provided to  
23 you in connection with your evaluation of the FGIC  
24 Settlement Agreement?

25 MR. KERR: Objection. Are you



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put forward the two issues. But what I was essentially asked to look at -- I mean, I am familiar with the array of factors that have to be evaluated with respect to the 9019, and I was being asked to provide my opinions with respect to the uncertainty and/or risk associated with prosecuting or defending the various claims that were being asserted initially by FGIC and the litigation that I was involved in representing the various Debtors on, as well as in the proofs of claim.

And then I was also asked to offer my view on the complexity of defending and/or prosecuting these cases and the costs and burdens associated with such prosecution or defense.

Q. And those opinions, is it fair to say they're summarized in the two bullet points in your Declaration, appearing on page 2?

A. Correct. Under legal uncertainty and expensive resolution.

Q. Okay. And referring to the legal uncertainty opinion, the first sentence there reads:

"The liabilities to be released

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2 Debtor-affiliated entities, is it fair to say that  
3 each has some relationship with the Debtor?

4 MR. KERR: Objection.

5 A. I don't know what you're asking.

6 Q. Does AFI, GMAC Holding, Ally Bank,  
7 and Ally Securities have some relationship with  
8 Residential Capital and its affiliated entities?

9 A. Well, I have some understanding as  
10 to the corporate structure. I think AFI and GMAC  
11 Holding are still the parent -- indirect and  
12 direct parent of Residential Capital. Ally Bank  
13 would be, at best, just affiliate, and the same  
14 with Ally Securities, at least at the time I was  
15 representing them.

16 At one point in time both of those  
17 entities were owned either by RFC or GMAC  
18 Mortgage, but I don't think at the time of my  
19 representation they were in that ownership chain,  
20 so they would have been subsidiaries of either  
21 GMAC Holdings or Ally Financial.

22 Q. Your representation of these -- was  
23 your representation of these four non-Debtor  
24 affiliated entities in connection with RMBS  
25 litigation?

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2 A. Mostly. As I said, I have  
3 represented GMAC for many, many years, and GMAC  
4 was renamed to Ally Financial. So, I've had a lot  
5 of representation with GMAC over the years.

6 But what I was -- to the extent in  
7 my Declaration I'm talking about RMBS, that would  
8 be -- those would be the only circumstances in  
9 which I was representing those entities, would be  
10 in RMBS, other than GMAC, or now known as Ally  
11 Financial.

12 Q. And in Paragraph 8 of your  
13 Declaration, toward the end of that paragraph, you  
14 write that:

15 "The cases involve claims of  
16 breaches of representations and warranties and  
17 related claims of alleged failure to repurchase  
18 loans pursuant to the terms of the applicable  
19 contracts."

20 Is it okay if I refer to these  
21 types of cases as reps and warranties cases?

22 A. Specifically the FGIC/MBIA -- or  
23 specifically the 12 FGIC and MBIA suits, sure.

24 Q. And were the cases for the four  
25 non-Debtor affiliated entities also rep and



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2 warranty cases?

3 A. Arguably, yes, with respect to the  
4 FGIC claims. In the MBIA cases I didn't represent  
5 the non-Debtor affiliated entities because they  
6 weren't sued. It was only directly MBIA versus  
7 Residential Funding and GMAC Mortgage.

8 Q. In Paragraph 7 you also refer to  
9 your representation of several individual former  
10 directors and officers of Debtor entities in over  
11 a dozen separate lawsuits involving certain Debtor  
12 entities issuance of RMBS.

13 Are the cases you're referring to  
14 in that part of Paragraph 7 connected to the 12  
15 FGIC cases brought against the Debtor?

16 A. That's part of it. At one point in  
17 time I think pre-petition there were about 17  
18 lawsuits that I was counsel of record for Debtors,  
19 some combination of Debtors, individual  
20 shareholders and/or the non-affiliated entities.

21 The pure rep and warranty claims  
22 were really brought by the credit enhancers, MBIA  
23 and FGIC. Most of the other suits were investors  
24 in the securities that were bringing any number of  
25 claims.